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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/065,869	11/26/2002	Richard William Ira Yarger	128653	5270

23413 7590 03/28/2006

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EXAMINER

DANG, DUY M

ART UNIT	PAPER NUMBER
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2624

DATE MAILED: 03/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/065,869

Applicant(s)

YARGER ET AL.

Examiner

Duy M. Dang

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11/26/02.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-5,7,8,11,13-15,17,18,21,23-25,27 and 28 is/are rejected.
- 7) ☒ Claim(s) 2,6,9,10,12,16,19,20,22 and 26 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>11/26/02 + 6/11/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claims 3-4, 7-8, 13-14, 17-18, 23-24, and 27-28 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. The recitations in these claims are already included in their independent claims and considered redundant.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1, 3-5, 7-8, 11, 13-15, 17-18, 21, 23-25, and 27-28 are rejected under 35 U.S.C. 102(e) as being anticipated by Wahl et al. (USPN 6,359,960. Art of record filed 6/11/04 and referred as “Wahl” hereinafter).

Regarding claim 1, Wahl teaches method of labeling orthogonal images (i.e., figures 1-2 and 5) comprising: identifying a primary image taken in a first plane (see figure 1 and col. 4 lines 14-22: note 3D volume data set acquired from the series of 2D projections; also see figure 2 for plurality of 2D projection planes denoted at P1-P4); identifying a plurality of secondary images taken in planes orthogonal to the first plane (see figure 1 and col. 4 lines 14-22: note 3D volume data set acquired from the series of 2D projections; also see figure 2 for plurality of 2D

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projection planes denoted at P1-P4); associating a label to a point in the primary image (see markers 6', 9', 6, 9, 6.1-6.4, 7.1-7.4, 8.1-8.4, and 9.1-9.4 mentioned in col. 4 lines 23-43 and figures 1-2); calculating a distance from the point to a line of intersection between the primary image and each secondary image in the plurality of images (see figures 2, 5 and abstract); and associating the label to a secondary image in the plurality of secondary images having a line of intersection with the primary image closest to the point (see figures 2, 5 and col. 6 lines 55-67 and col. 7 lines 47-67).

It is noted that claims 11 and 21 recite similar features called for in claim 1 above. Thus, claims 11 and 21 are also rejected for the same reasons as set forth above.

Regarding claims 5, 15, and 25, it is noted that these claims recite similar features called for in claim 1 with additional of claimed "first and second labels". The advance statements applied to claim 1 above are incorporated herein. Wahl further teaches labels (see markers 6', 9', 6, 9, 6.1-6.4, 7.1-7.4, 8.1-8.4, and 9.1-9.4 mentioned in col. 4 lines 23-43 and figures 1-2. Note that any two markers mentioned in this cited portion refers to the so called first and second labels).

Regarding claims 3-4, 7-8, 13-14, 17-18, 23-24, and 27-28, see claim rejection set forth in claim 1 above.

Allowable Subject Matter

4. Claims 2, 6, 9-10, 12, 16, 19-20, 22, and 26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

5. The following is a statement of reasons for the indication of allowable subject matter:

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The prior art of record fails to teach or suggest the claimed as recited in claims 2, 6, 12, 16, 22, and 26.

The prior art of record fails to teach or suggest the claimed features as recited in claims 9, and 19.

The prior art of record fails to teach or suggest the claimed features as recited in claims 10 and 20.


Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Duy M. Dang whose telephone number is 571-272-7389. The examiner can normally be reached on Monday to Friday from 6:00AM to 2:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew C. Bella can be reached on 571-272-7778. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

dmd
3/06


Duy M. Dang
Patent Examiner